

1400.7800 CONDUCT OF HEARING.

In the absence of a specific provision mandating or permitting a closed hearing, all contested case hearings are open to the public. Unless the judge determines that the public interest will be equally served otherwise, the hearing shall be conducted substantially in the following manner:

A. The judge shall open the hearing by reading the title of the case, asking the parties or counsel to note their appearances, and explaining the hearing procedure to unrepresented parties.

B. After opening the hearing, the judge shall, unless all parties are represented by counsel or are otherwise familiar with the procedures, state the procedural rules for the hearing including the following:

(1) All parties may present evidence and argument with respect to the issues and cross-examine witnesses.

(2) All parties have a right to be represented by an attorney at the hearing.

(3) The rules of evidence in part 1400.7300, subpart 1.

C. Any stipulations, settlement agreements, or consent orders entered into by any of the parties prior to the hearing shall be entered into the record.

D. The party with the burden of proof may make an opening statement. All other parties may make statements in a sequence determined by the judge.

E. After any opening statements, the party with the burden of proof shall begin the presentation of evidence unless the parties have agreed otherwise or the administrative law judge determines that requiring another party to proceed first would be more expeditious and would not jeopardize the rights of any other party. It shall be followed by the other parties in a sequence determined by the judge.

F. Cross-examination of witnesses shall be conducted in a sequence and in a manner determined by the judge to expedite the hearing while ensuring a fair hearing. At the request of a party whose witness is being cross-examined, the judge shall make rulings as are necessary to prevent argumentative, repetitive, or irrelevant questioning and to expedite the cross-examination to the extent consistent with the disclosure of all relevant testimony and information.

G. Any party may be a witness or may present other persons as witnesses at the hearing. All evidentiary testimony presented to prove or disprove a fact at issue shall be under oath or affirmation.

H. When all parties and witnesses have been heard, opportunity shall be offered to present oral final argument, in a sequence determined by the judge. Final argument

may, in the discretion of the judge, be in the form of written memoranda or oral argument, or both. Final argument need not be recorded, in the discretion of the judge. Written memoranda may, in the discretion of the judge, be submitted simultaneously or sequentially and within time periods as the judge may prescribe. The judge may limit the length of written memoranda.

I. After final argument, the hearing shall be closed unless a continuance has been ordered under part 1400.7500. If continued, it shall be either: continued to a certain time and day, announced at the time of the hearing and made a part of the record; or continued to a date to be determined later, which must be upon not less than five days' written notice to the parties.

J. The record of the contested case proceeding shall be closed upon receipt of the final written memorandum, transcript, if any, or late filed exhibits which the parties and the judge have agreed should be received into the record, whichever occurs latest.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 15.474; 363.06; 363A.28*

History: *9 SR 2276; 26 SR 391*

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